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UMG RECORDINGS, INC.; ARISTA
RECORDS LLC; LAFACE RECORDS
LLC; ZOMBA RECORDING LLC;
CAPITOL RECORDS, INC.; SONY BMG
MUSIC ENTERTAINMENT; and BMG
MUSIC

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UMG RECORDINGS, INC., a Delaware
corporation; ARISTA RECORDS LLC, a
Delaware limited liability company; LAFACE
RECORDS LLC, a Delaware limited liability
company; ZOMBA RECORDING LLC, a
Delaware limited liability company; CAPITOL
RECORDS, INC., a Delaware corporation;
SONY BMG MUSIC ENTERTAINMENT, a
Delaware general partnership; and BMG
MUSIC, a New York general partnership,

Plaintiffs,

v.

JOHN DOE,

Defendant.

CASE NO. 3:08-CV-01192-WHA

Honorable William H. Alsup

***EX PARTE* APPLICATION TO CONTINUE
CASE MANAGEMENT CONFERENCE
AND [PROPOSED] ORDER**

1 Plaintiffs respectfully request that the Court continue the case management conference
2 currently set for June 5, 2008 at 3:00 p.m. to September 4, 2008. As set forth in greater detail below,
3 Plaintiffs have not yet discovered the true identity of the Doe defendant in this case because they are
4 awaiting a response to their subpoena that was served on the Doe defendant's Internet Service
5 Provider ("ISP") requesting Defendant's identifying information.

6 1. Plaintiffs have not requested any previous continuances of the case management
7 conference in this matter.

8 2. Plaintiffs filed the Complaint for Copyright Infringement against Defendant John Doe
9 ("Defendant") on February 28, 2008. Plaintiffs did not have sufficient identifying information to
10 name the defendant in the Complaint, but were able to identify Defendant by the Internet Protocol
11 address assigned by Defendant's Internet Service Provider ("ISP"). In order to determine
12 Defendant's true identity, Plaintiffs filed their *Ex Parte* Application for Leave to Take Immediate
13 Discovery on February 28, 2008, seeking the Court's permission to serve a Rule 45 subpoena on the
14 ISP. The Court entered an Order for Leave to Take Immediate Discovery on March 5, 2008,
15 granting Plaintiffs' request to serve a Rule 45 subpoena on the ISP seeking identifying information
16 including Defendant's true name, address, telephone number, e-mail address, and Media Access
17 Control address.

18 3. Plaintiffs served their subpoena on the ISP on March 27, 2008. The original deadline
19 for the ISP to respond to Plaintiffs' subpoena was April 30, 2008. The ISP has twice requested
20 additional time to respond to the subpoena, and both times Plaintiffs have agreed. The response
21 deadline is currently May 29, 2008.

22 4. Once the Defendant is identified, Plaintiffs will give Defendant written notice of their
23 claim and attempt to contact Defendant and resolve the dispute. If the dispute cannot be resolved,
24 Plaintiffs plan to file a First Amended Complaint naming Defendant individually and then proceed to
25 serve process upon him or her.

26 5. Plaintiffs anticipate that a continuance of at least 90 days will be necessary to
27 complete the early discovery process aimed at determining John Doe's true identity, attempt
28 resolution of the dispute, and – if necessary – amend the complaint to name the defendant

1 individually, serve process on him or her, and for Defendant to file an answer prior to the case
2 management conference. Unlike a traditional case in which the identity of the defendant is known
3 and efforts to resolve the dispute can begin prior to filing the suit (and efforts to effect service of
4 process can begin immediately thereafter), in this case Plaintiffs first needed to file a John Doe
5 lawsuit and attempt to obtain the Doe defendant's true identity through a subpoena to the ISP, a
6 process which is not yet complete.

7 6. Given the foregoing circumstances, and because there is not yet a known defendant
8 with whom to confer, a case management conference is unnecessary at this time. Plaintiffs therefore
9 respectfully request that the Court continue the case management conference currently set for June 5,
10 2008 at 3:00 p.m. to September 4, 2008.

11
12 Dated: May 27, 2008

HOLME ROBERTS & OWEN LLP

13
14 By: /s/ Matthew Franklin Jaksa

15 MATTHEW FRANKLIN JAKSA
16 Attorney for Plaintiffs

17
18 **[PROPOSED] ORDER**

19 Good cause having been shown:

20 **IT IS ORDERED** that the case management conference currently set for June 5, 2008 at
21 3:00 p.m. be continued to September 4, 2008.

22
23
24
25 Dated: _____

26 By: _____
27 Honorable William H. Alsup
28 United States District Judge